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Attorneys for Plaintiff

JOHN A. MOFFETT

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

JOHN A. MOFFETT,

Plaintiff,

vs.

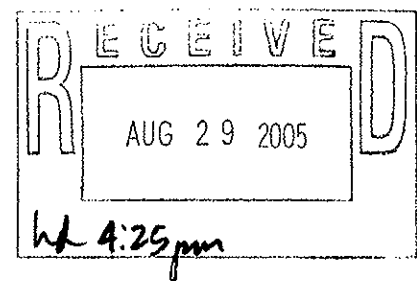
SMF SYSTEMS CORPORATION, a  
Maryland corporation; TOM  
CAFFREY; RUBY CAFFREY; DOE  
CORPORATIONS 1-20; DOE  
PARTNERSHIPS 1-20; DOE  
ENTITIES 2-10; JOHN DOES 1-20;  
JANE DOES 1-20; DOE  
GOVERNMENTAL AGENCIES 1-20,

Defendants.

CIVIL NO. 03-00130 MLR/BMK

PLAINTIFF'S FINAL WITNESS  
LIST; CERTIFICATE OF SERVICE

TRIAL: SEPTEMBER 19, 2005  
JUDGE: HON. MANUEL L. REAL



### **PLAINTIFF'S FINAL WITNESS LIST**

Plaintiff JOHN A. MOFFETT (hereinafter "Plaintiff"), by and through his attorneys, Goodsill Anderson Quinn & Stifel LLP, hereby submits his final witness list for trial as follows:

#### **I. PLAINTIFF'S CASE IN CHIEF**

Plaintiff intends to call the following witnesses in his case in chief.

The estimated time is for direct examination only.

	<b>WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>	<b>EST. TIME ON DIRECT</b>
1.	Caffrey, Ruby	Will testify as to issues of liability including, but not limited to: her role with SMF; the Caffreys' relationship with Millard; the employment of Plaintiff; Plaintiff's complaints regarding the sexual harassment of Monica Nelson and of other illegal and/or improper activities at Defendant SMF Systems and TNOSC; Defendants' failure to respond to Plaintiff's complaints; her correspondence with Plaintiff concerning irregularities in Defendant SMF Systems' handling of contributions into Plaintiff's 401(k) plan and her role as the plan's administrator; the telephone discussion she had with Plaintiff in March 2001; Plaintiff's termination from employment; Defendants' ongoing actions against Plaintiff following his	½ day

	WITNESS	SUBSTANCE OF TESTIMONY	EST. TIME ON DIRECT
		termination; Defendants' representations to the EEOC; the relationship of SMF Systems Technology to SMF; authentication of documents.	
2.	Caffrey, Thomas	Will testify as to issues of liability including, but not limited to: his role with SMF; the employment of Plaintiff; Plaintiff's complaints regarding the sexual harassment of Monica Nelson and of other illegal and/or improper activities at Defendant SMF Systems and TNOSC; Defendants' failure to respond to Plaintiff's complaints; Plaintiff's termination from employment; Defendants' ongoing actions against Plaintiff following his termination; Defendants' representations to the EEOC; the relationship of SMF Systems Technology to SMF; his relationship with David Millard; his relationship with Richard Kelley; authentication of documents.	½ day
3.	Cheski, Edward	Will testify as to issues of liability including, but not limited to: his knowledge of the sexual harassment against Monica Nelson and SMF's response; Millard's improper control over SMF employees; the relationship between Millard and Tom Caffrey; and the relationship between Millard and Langley.	1 hour

	WITNESS	SUBSTANCE OF TESTIMONY	EST. TIME ON DIRECT
4.	Elliott Perez, Katherine	Will testify as to issues of liability including, but not limited to: her knowledge of the sexual harassment against Nelson; Millard's improper control over SMF employees; Millard's improper management of the TNOSC contract; and training reimbursement issues.	1 hour
5.	Hipsher, James Michael ("Mick")	Will testify as to issues of liability including, but not limited to: his investigation into Plaintiff's complaint to the DOD Hotline; communications with the Caffreys regarding the CID investigation; legal requirements of federal contract management; authentication of documents.	1 hour
6.	Hoffman, Lori	Will testify as to issues of liability including, but not limited to: her knowledge of the sexual harassment against Monica Nelson; and her knowledge of illegal and/or improper activities at Defendant SMF Systems and TNOSC.	1 hour
7.	Johnson, Mark, Lt. Col. (ret.)	Will testify as to issues of liability including, but not limited to: his knowledge of the phone calls that occurred on March 8, 2001 between Plaintiff and Defendants; his discussions with Plaintiff regarding the harassment of Monica Nelson and improper activities at TNOSC and his response, recommendations and	1 hour (by deposition)

	WITNESS	SUBSTANCE OF TESTIMONY	EST. TIME ON DIRECT
		follow up; authentication of documents.	
8.	Kelley, Richard	Will testify as to issues of liability including, but not limited to: his role in the management of Defendant SMF Systems; his knowledge of Plaintiff's complaints to Defendants regarding illegal and/or improper activities that occurred at Defendant SMF Systems and TNOSC; his relationship with Tom Caffrey; and the relationship of SMF Systems Technology to Defendant SMF; authentication of documents.	1 hour
9.	Kreis, Linda K.	Will testify as to issues of liability including, but not limited to: the matters set forth in her expert disclosures.	2 hours
10.	Loudat, Thomas A., Ph.D.	Will testify as to issues of damages including, but not limited to: the matters set forth in his expert disclosures.	2 hours
11.	Louie, Anna	Will testify as to issues of liability including, but not limited to: her employment at SMF; her supervision of Plaintiff at SMF; her knowledge of Plaintiff's termination from employment; her conversations with Millard and Langley regarding Plaintiff; the sexual harassment of Monica Nelson; Millard's improper control over SMF employees; her knowledge regarding illegal and/or	2 hours

	WITNESS	SUBSTANCE OF TESTIMONY	EST. TIME ON DIRECT
		improper activities that occurred at Defendant SMF Systems and at TNOSC; SMF's travel reimbursement policy; and her participation in investigations of Millard and SMF; authentication of documents.	
12.	Luke, Kenneth M.D.	Will testify as to issues of liability and damages including, but not limited to: his treatment of Plaintiff; authentication of documents.	1 hour
13.	Moffett, John	Will testify as to issues of liability and damages including, but not limited to: his employment with Defendant SMF Systems; his knowledge of the sexual harassment against Monica Nelson and of illegal and/or improper activities at Defendant SMF Systems and TNOSC; his complaints to Defendants, to the DOD Hotline, and to the Department of Labor; the subsequent investigation into his complaints to the DOD Hotline; his termination from employment; Defendants' ongoing retaliatory actions against him; and his emotional distress and damages sustained as a result of Defendants' conduct; authentication of documents.	1 day
14.	Nehmad, Robert	Will testify as to issues of liability including, but not limited to: his role in the management of	1 hour



	WITNESS	SUBSTANCE OF TESTIMONY	EST. TIME ON DIRECT
		Defendant SMF Systems; his knowledge of Monica Nelson's complaint to him about sexual harassment; his knowledge of Plaintiff's complaint to him about the sexual harassment of Nelson and of other illegal and/or improper activities at Defendant SMF Systems; his knowledge of Defendants' failure to respond to those complaints; his knowledge of Plaintiff's termination from employment and his knowledge of the October 2000 e-mail from Plaintiff to Defendants Tom and Ruby Caffrey regarding Plaintiff's complaints; authentication of documents.	
15.	Noel, Peter	Will testify as to issues of liability including, but not limited to: his employment at SMF and Fort Shafter; his knowledge of illegal and/or improper activities at SMF and TNOSC; Millard's improper control over SMF employees; his participation in government investigations into Millard and SMF; his knowledge of Plaintiff's work at SMF; the hiring of Langley as project manager.	1 hour
16.	Olsen, Matthew	Will testify as to issues of liability, including, but not limited to: SMF's contract to provide technical services to support the 516 <sup>th</sup> Signal Brigade at Fort Shafter, Hawaii; legal	1 hour

	WITNESS	SUBSTANCE OF TESTIMONY	EST. TIME ON DIRECT
		requirements of federal contract management; authentication of documents.	
17.	Pay, Peter	Will testify as to issues of liability including, but not limited to: his knowledge of Defendant SMF Systems' corporate structure, its business in Hawaii, and of its relationship to SMF Systems Technology Corporation; the Caffreys' and Kelley's continued relationship with SMF Technology.	1 hour (by deposition)
18.	Tanicala, Rowena	Will testify as to issues of liability including, but not limited to: her knowledge of actions taken against Plaintiff following his termination from employment; and her knowledge of illegal and/or improper activities at Defendant SMF Systems and TNOSC; her participation in government investigation; the relationship between the Caffreys and Millard and Locke; authentication of documents.	1 hour
19.	Vailuu, Bernard	Will testify as to issues of liability including, but not limited to: his investigation into Plaintiff's complaint to the DOD Hotline; his conversations with the Caffreys and the dates thereof; his communications with Velma Locke, and authentication of his e-mails with her as well as other documents.	1 hour



	<b>WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>	<b>EST. TIME ON DIRECT</b>
20.	Vining, Doreen (fka Doreen Jordan)	Will testify as to issues of liability including, but not limited to: her knowledge of Millard's efforts to control TNOSC, RCERT; Millard's improper control over SMF employees' terms of employment; her knowledge of the sexual harassment of Nelson; her knowledge of illegal and/or improper activities at Defendant SMF Systems and TNOSC.	1 hour
21.	Custodian of records or other representative, Criminal Investigation Division of the U.S. Army or other releasing agencies (including James Michael Hipsher, Philip McGuire)	Will testify as to the authenticity and nature of records from the U.S. Army Criminal Investigation Command's or Criminal Investigation Division's or other releasing agency's files for complaints made against David Millard and/or SMF Systems, including the CID report produced in this case and/or to be produced pursuant to request or subpoena.	Mr. McGuire to testify in the form of a Certificate of Writing in Official Custody

### **REBUTTAL AND IMPEACHMENT WITNESSES**

Although Plaintiff need not identify his rebuttal or impeachment witnesses at this time, he has previously identified at least some of those witnesses, and they are included in the chart below. Since Plaintiff cannot anticipate at this time whether the testimony of such witnesses will be necessary or appropriate, no estimated time for the testimony is provided.

<b>REBUTTAL/IMPEACHMENT WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>
Bowns, George	Will testify as to issues of liability and credibility including, but not limited to: his employment at SMF and the basis for his termination
Coward, Blane	Will testify as to issues of liability and credibility including, but not limited to: his employment with SMF, Tom Caffrey's false statements regarding the reasons for Mr. Coward's termination.
Henry, Barney Tobe	Will testify as to issues of liability and credibility including, but not limited to: his former business relationship with the Caffreys and SMF, Tom Caffrey's false testimony regarding same
Kalina, David	Will testify as to issues of liability and credibility including, but not limited to: his employment with SMF, Tom Caffrey's false statements regarding the bases for termination of certain SMF employees
Nakashima, Steven	Will testify as to liability including, but not limited to: authentication of and authorization for documents submitted by him to the EEOC on behalf of Defendants; representations made by Defendants to the EEOC and authorization therefor.
Wadsworth, Steven	Will testify as to issues of liability and credibility including, but limited to: his employment with SMF, Tom Caffrey's false statements regarding his termination

### **CUSTODIANS OF RECORD**

At this time, it is anticipated that the parties will stipulate to authenticity of the documents for which Plaintiff would otherwise have utilized the

testimony of a custodian of records, or said custodians' testimony has become unnecessary because of agreements between the parties as to certain facts. Clyde Long is included in this list for the same reason. Therefore, Plaintiff does not at this time anticipate having to call the witnesses identified below. However, Plaintiff reserves the right to utilize the witnesses identified in the charts above for purposes of authentication where necessary, and also reserves the right to call any of the below-identified custodians if it becomes necessary.

<b>CUSTODIAN WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>
Custodian of records or other representative, U.S. General Accounting Office	Will testify as to the authenticity and nature of records from the U.S. GAO's or other releasing agency's files for complaints made against David Millard and/or SMF Systems, including the e-mail dated 8/5/99 produced in this case as M0327-0330.
Custodian of records or other representative, Equal Employment Opportunity Commission	Will testify as to the authenticity and nature of records from EEOC files for complaints by Plaintiff to the EEOC produced in this case and/or to be produced pursuant to request or subpoena.
Custodian of records or other representative, Hawaii Civil Rights Commission	Will testify as to the authenticity and nature of records from HCRC files for complaints by Plaintiff to the HCRC produced in this case and/or to be produced pursuant to request or subpoena.
Custodian of records or other representative, Department of Defense or other releasing agencies	Will testify as to the authenticity and nature of records from the DOD's or other releasing agency's files for complaints made against David Millard and/or SMF Systems, including the CID report produced in this case and/or to be produced pursuant to request or subpoena.

<b>CUSTODIAN WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>
Custodian of records or other representative, SMF Systems Corporation	Will testify as to the authenticity and nature of records from SMF's files.
Custodian of records or other representative, Dr. Thomas Fiester	Will testify as to the authenticity and nature of records from Dr. Fiester regarding Plaintiff
Custodian of records or other representative, Dr. Laurence Granston	Will testify as to the authenticity and nature of records from Dr. Granston regarding Plaintiff.
Custodian of records or other representative, Dr. Kenneth Luke	Will testify as to the authenticity and nature of records from Dr. Luke regarding Plaintiff.
Custodian of records or other representative, Dr. Haleh Nekoerad-Long	Will testify as to the authenticity and nature of records from Dr. Nekoerad-Long regarding Plaintiff.
Long, Clyde	Will testify as to issues of liability and damages including, but not limited to: authentication of and authorization for documents sent by him to Plaintiff; Defendants' demand for reimbursement from Plaintiff of travel/training expenses and authorization therefor; Defendants' filing of claims against Plaintiff in California and Colorado and authorization for same.

### **OTHER WITNESSES**

Plaintiff identified certain other witnesses in his Amended Final Pretrial Statement, as set forth in the chart below. At this time, it is highly unlikely that Plaintiff will call these witnesses at trial, primarily because Plaintiff has been unable to locate said witnesses, or because they are on the mainland and it would not be feasible for them to travel to Hawaii for trial. Plaintiff is, however,

continuing to attempt to locate at least some of the witnesses that have not been located, and will amend this witness list promptly upon locating any witness whom Plaintiff intends to call in his case in chief.

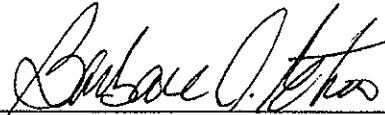
OTHER WITNESS	SUBSTANCE OF TESTIMONY
Blount, Ryan	Will testify as to issues of liability including, but not limited to: his investigation into Plaintiff's complaint to the DOD Hotline.
Fiester, Thomas L.	Will testify as to issues of liability and damages including, but not limited to: his treatment of Plaintiff.
Granston, Laurence	Will testify as to issues of liability and damages including, but not limited to: his treatment of Plaintiff.
King, William Matthew	Mr. King is believed to be deceased, however this has not been confirmed. His testimony would go to issues of liability and credibility including, but not limited to: his employment at SMF and the reasons for his termination.
Medreno, Lisa	Will testify as to issues of liability including, but not limited to: her investigation into Plaintiff's complaint to the DOD Hotline; the distribution of the preliminary findings.
Nekoorad-Long, Haleh	Will testify as to liability and damages including, but not limited to: her treatment of Plaintiff.
Nelson, Monica	Will testify as to issues of liability including, but not limited to: her employment at SMF and Fort Shafter; the harassment by Millard and Wes Green; her reports of the harassment to Nehmad; SMF's response to her reports of harassment; her giving Plaintiff authority to act on her behalf as to the harassment; her knowledge of illegal

OTHER WITNESS	SUBSTANCE OF TESTIMONY
	and/or improper activities at SMF and TNOSC; Millard's improper control over SMF employees; her participation in government investigations into Millard and SMF; and her termination from SMF.
O'Brennan, Laura	Will testify as to issues of liability including, but not limited to: SMF's contract to provide technical services to support the 516 <sup>th</sup> Signal Brigade at Fort Shafter, Hawaii.
Schady, Rob	Will testify as to issues of liability including, but not limited to: his employment with SMF; his knowledge of the relationship between SMF and Millard; and Millard's improper control over SMF employees.
Stancu, John, Lt. Col.	Will testify as to issues of liability including, but not limited to: Plaintiff's complaint to the DOD Hotline and the investigation of that complaint.
Swim, Scott	Will testify as to issues of liability including, but not limited to: his employment at SMF/TNOSC; Millard's improper control over SMF employees; his knowledge of illegal and/or improper activities at SMF and TNOSC; and the relationship of Millard and SMF managers.

Plaintiff reserves the right to call any and all witnesses disclosed or listed by Defendants in any pleadings or discovery responses, and any and all non-expert and expert witnesses, if any, necessary for rebuttal or impeachment.



DATED: Honolulu, Hawaii, August 29, 2005.

A handwritten signature in cursive script, appearing to read 'Barbara A. Petrus', is written above a horizontal line.

BARBARA A. PETRUS  
LINDALEE K. FARM  
DONNA H. KALAMA

Attorneys for Plaintiff  
JOHN A. MOFFETT

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

JOHN A. MOFFETT,

Plaintiff,

vs.

SMF SYSTEMS CORPORATION, a  
Maryland corporation; et al.,

Defendants.

CIVIL NO. 03-00130 HG/BMK

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was duly served on this date  
upon the following person(s) at the address(es) listed below by the means indicated:

Mail      Hand Delivery

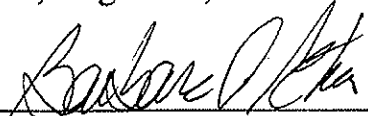
LYNNE T. T. TOYOFUKU, ESQ.  
NICHOLE K. SHIMAMOTO, ESQ.  
Marr Hipp Jones & Wang  
1001 Bishop Street, 1550 Pauahi Tower  
Honolulu, HI 96813

✓

H. CLYDE LONG, ESQ.  
950 Risa Road, 2<sup>nd</sup> Floor  
LaFayette, CA 94549

✓

DATED: Honolulu, Hawaii, August 29, 2005.

  
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SEP - 7 2005  
Maui

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Facsimile: (808) 547-5880

Attorneys for Plaintiff

JOHN A. MOFFETT

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

JOHN A. MOFFETT,

Plaintiff,

vs.

SMF SYSTEMS CORPORATION, a  
Maryland corporation; TOM  
CAFFREY; RUBY CAFFREY; DOE  
CORPORATIONS 1-20; DOE  
PARTNERSHIPS 1-20; DOE  
ENTITIES 2-10; JOHN DOES 1-20;  
JANE DOES 1-20; DOE  
GOVERNMENTAL AGENCIES 1-20,

Defendants.

CIVIL NO. 03-00130 MLR/BMK

PLAINTIFF'S FIRST AMENDED  
FINAL WITNESS LIST;  
CERTIFICATE OF SERVICE

TRIAL: SEPTEMBER 19, 2005  
JUDGE: HON. MANUEL L. REAL

**PLAINTIFF'S FIRST AMENDED FINAL WITNESS LIST**

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Plaintiff JOHN A. MOFFETT (hereinafter "Plaintiff"), by and through his attorneys, Goodsill Anderson Quinn & Stifel LLP, hereby submits his final witness list for trial as follows:

**I. PLAINTIFF'S CASE IN CHIEF**

Plaintiff intends to call the following witnesses in his case in chief.

The estimated time is for direct examination only.

	<b>WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>	<b>EST. TIME ON DIRECT</b>
1.	Caffrey, Ruby	Will testify as to issues of liability including, but not limited to: her role with SMF; the Caffreys' relationship with Millard; the employment of Plaintiff; Plaintiff's complaints regarding the sexual harassment of Monica Nelson and of other illegal and/or improper activities at Defendant SMF Systems and TNOSC; Defendants' failure to respond to Plaintiff's complaints; her correspondence with Plaintiff concerning irregularities in Defendant SMF Systems' handling of contributions into Plaintiff's 401(k) plan and her role as the plan's administrator; the telephone discussion she had with Plaintiff in March 2001; Plaintiff's termination from employment; Defendants' ongoing actions against Plaintiff following his	½ day

	<b>WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>	<b>EST. TIME ON DIRECT</b>
		termination; Defendants' representations to the EEOC; the relationship of SMF Systems Technology to SMF; authentication of documents.	
2.	Caffrey, Thomas	Will testify as to issues of liability including, but not limited to: his role with SMF; the employment of Plaintiff; Plaintiff's complaints regarding the sexual harassment of Monica Nelson and of other illegal and/or improper activities at Defendant SMF Systems and TNOSC; Defendants' failure to respond to Plaintiff's complaints; Plaintiff's termination from employment; Defendants' ongoing actions against Plaintiff following his termination; Defendants' representations to the EEOC; the relationship of SMF Systems Technology to SMF; his relationship with David Millard; his relationship with Richard Kelley; authentication of documents.	½ day
3.	Cheski, Edward	Will testify as to issues of liability including, but not limited to: his knowledge of the sexual harassment against Monica Nelson and SMF's response; Millard's improper control over SMF employees; the relationship between Millard and Tom Caffrey; and the relationship between Millard and Langley.	1 hour

	WITNESS	SUBSTANCE OF TESTIMONY	EST. TIME ON DIRECT
4.	Elliott Perez, Katherine	Will testify as to issues of liability including, but not limited to: her knowledge of the sexual harassment against Nelson; Millard's improper control over SMF employees; and training reimbursement issues.	1 hour
5.	Hipsher, James Michael ("Mick")	Will testify as to issues of liability including, but not limited to: his investigation into Plaintiff's complaint to the DOD Hotline; communications with the Caffreys regarding the CID investigation; legal requirements of federal contract management; authentication of documents. His testimony will focus on matters relevant to the remaining claims, including what his investigation into Millard and SMF shows of their relationship, which goes directly to motive of SMF to retaliate against Plaintiff for complaining about Millard's sexual harassment of Monica Nelson.	1 hour
6.	Hoffman, Lori	Will testify as to issues of liability including, but not limited to: her knowledge of the sexual harassment against Monica Nelson; and her knowledge of illegal and/or improper activities at Defendant SMF Systems and TNOSC, as they relate to the remaining issues in this case.	1 hour



	<b>WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>	<b>EST. TIME ON DIRECT</b>
7.	Johnson, Mark, Lt. Col. (ret.)	Will testify as to issues of liability including, but not limited to: his knowledge of the phone calls that occurred on March 8, 2001 between Plaintiff and Defendants; his discussions with Plaintiff regarding the harassment of Monica Nelson and improper activities at TNOSC and his response, recommendations and follow up; authentication of documents.	1 hour (by deposition)
8.	Kelley, Richard	Will testify as to issues of liability including, but not limited to: his role in the management of Defendant SMF Systems; his knowledge of Plaintiff's complaints to Defendants regarding illegal and/or improper activities that occurred at Defendant SMF Systems and TNOSC; his relationship with Tom Caffrey; and the relationship of SMF Systems Technology to Defendant SMF; authentication of documents.	1 hour
9.	Kreis, Linda K.	Will testify as to issues of liability including, but not limited to: the matters set forth in her expert disclosures.	2 hours
10.	Loudat, Thomas A., Ph.D.	Will testify as to issues of damages including, but not limited to: the matters set forth in his expert disclosures.	2 hours

	<b>WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>	<b>EST. TIME ON DIRECT</b>
11.	Louie, Anna	Will testify as to issues of liability including, but not limited to: her employment at SMF; her supervision of Plaintiff at SMF; her knowledge of Plaintiff's termination from employment; her conversations with Millard and Langley regarding Plaintiff; the sexual harassment of Monica Nelson; Millard's improper control over SMF employees; her knowledge regarding illegal and/or improper activities that occurred at Defendant SMF Systems and at TNOSC; SMF's travel reimbursement policy; and her participation in investigations of Millard and SMF; authentication of documents, as these topics relate to the remaining claims in this case.	2 hours
12.	Luke, Kenneth M.D.	Will testify as to issues of liability and damages including, but not limited to: his treatment of Plaintiff; authentication of documents.	1 hour
13.	Moffett, John	Will testify as to issues of liability and damages including, but not limited to: his employment with Defendant SMF Systems; his knowledge of the sexual harassment against Monica Nelson and of illegal and/or improper activities at Defendant SMF Systems and TNOSC; his complaints to Defendants, to the	1 day

	WITNESS	SUBSTANCE OF TESTIMONY	EST. TIME ON DIRECT
		DOD Hotline, and to the Department of Labor; the subsequent investigation into his complaints to the DOD Hotline; his termination from employment; Defendants' ongoing retaliatory actions against him; and his emotional distress and damages sustained as a result of Defendants' conduct; authentication of documents, as these topics relate to the remaining claims in this case.	
14.	Nehmad, Robert	Will testify as to issues of liability including, but not limited to: his role in the management of Defendant SMF Systems; his knowledge of Monica Nelson's complaint to him about sexual harassment; his knowledge of Plaintiff's complaint to him about the sexual harassment of Nelson and of other illegal and/or improper activities at Defendant SMF Systems; his knowledge of Defendants' failure to respond to those complaints; his knowledge of Plaintiff's termination from employment and his knowledge of the October 2000 e-mail from Plaintiff to Defendants Tom and Ruby Caffrey regarding Plaintiff's complaints; authentication of documents, as these topics relate to the remaining claims in this case.	1 hour

	<b>WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>	<b>EST. TIME ON DIRECT</b>
15.	Noel, Peter	Will testify as to issues of liability including, but not limited to: his employment at SMF and Fort Shafter; his knowledge of Plaintiff's work at SMF; and his knowledge of activities tending to show the relationship between Millard and SMF beyond that of government employee and contractor.	1 hour
16.	Pay, Peter	Will testify as to issues of liability including, but not limited to: his knowledge of Defendant SMF Systems' corporate structure, its business in Hawaii, and of its relationship to SMF Systems Technology Corporation; the Caffreys' and Kelley's continued relationship with SMF Technology.	1 hour (by deposition)
17.	Tanicala, Rowena	Will testify as to issues of liability including, but not limited to: her knowledge of actions taken against Plaintiff following his termination from employment; and her knowledge of illegal and/or improper activities at Defendant SMF Systems and TNOSC; her participation in government investigation; the relationship between the Caffreys and Millard and Locke; authentication of documents, as these topics pertain to the remaining claims in this case.	1 hour

	<b>WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>	<b>EST. TIME ON DIRECT</b>
18.	Vailuu, Bernard	Will testify as to issues of liability including, but not limited to: his investigation into Plaintiff's complaint to the DOD Hotline; his conversations with the Caffreys and the dates thereof; his communications with Velma Locke, and authentication of his e-mails with her as well as other documents, as these topics pertain to the remaining claims in this case.	1 hour
19.	Vining, Doreen (fka Doreen Jordan)	Will testify as to issues of liability including, but not limited to: her knowledge of Millard's efforts to control TNOSC, RCERT; Millard's improper control over SMF employees' terms of employment; her knowledge of the sexual harassment of Nelson; her knowledge of illegal and/or improper activities at Defendant SMF Systems and TNOSC, as these topics pertain to the remaining claims in this case.	1 hour
20.	Custodian of records or other representative, Criminal Investigation Division of the U.S. Army or other releasing agencies (including James Michael Hipsher, Philip McGuire)	Will testify as to the authenticity and nature of records from the U.S. Army Criminal Investigation Command's or Criminal Investigation Division's or other releasing agency's files for complaints made against David Millard and/or SMF Systems, including the CID report produced in this case and/or to be produced pursuant to request or subpoena.	Mr. McGuire to testify in the form of a Certificate of Writing in Official Custody

### **REBUTTAL AND IMPEACHMENT WITNESSES**

Although Plaintiff need not identify his rebuttal or impeachment witnesses at this time, he has previously identified at least some of those witnesses, and they are included in the chart below. Since Plaintiff cannot anticipate at this time whether the testimony of such witnesses will be necessary or appropriate, no estimated time for the testimony is provided. Plaintiff reserves the right to call any and all rebuttal and impeachment witnesses, including any witnesses who have been removed from this First Amended Final Witness List.

<b>REBUTTAL/IMPEACHMENT WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>
Bowns, George	Will testify as to issues of liability and credibility including, but not limited to: his employment at SMF and the basis for his termination
Cowart, Blane	Will testify as to issues of liability and credibility including, but not limited to: his employment with SMF, Tom Caffrey's false statements regarding the reasons for Mr. Cowart's termination.
Henry, Barney Tobe	Will testify as to issues of liability and credibility including, but not limited to: his former business relationship with the Caffreys and SMF, Tom Caffrey's false testimony regarding same
Kalina, David	Will testify as to issues of liability and credibility including, but not limited to: his employment with SMF, Tom Caffrey's false statements regarding the bases for termination of certain SMF employees



<b>REBUTTAL/IMPEACHMENT WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>
Nakashima, Steven	Will testify as to liability including, but not limited to: authentication of and authorization for documents submitted by him to the EEOC on behalf of Defendants; representations made by Defendants to the EEOC and authorization therefor.
Wadsworth, Steven	Will testify as to issues of liability and credibility including, but limited to: his employment with SMF, Tom Caffrey's false statements regarding his termination

### **CUSTODIANS OF RECORD**

At this time, it is anticipated that the parties will stipulate to authenticity of the documents for which Plaintiff would otherwise have utilized the testimony of a custodian of records, or said custodians' testimony has become unnecessary because of agreements between the parties as to certain facts. Clyde Long is included in this list for the same reason. Therefore, Plaintiff does not at this time anticipate having to call the witnesses identified below. However, Plaintiff reserves the right to utilize the witnesses identified in the charts above for purposes of authentication where necessary, and also reserves the right to call any of the below-identified custodians if it becomes necessary.

<b>CUSTODIAN WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>
Custodian of records or other representative, U.S. General Accounting Office	Will testify as to the authenticity and nature of records from the U.S. GAO's or other releasing agency's files for complaints made against David Millard and/or SMF Systems,

CUSTODIAN WITNESS	SUBSTANCE OF TESTIMONY
	including the e-mail dated 8/5/99 produced in this case as M0327-0330.
Custodian of records or other representative, Equal Employment Opportunity Commission	Will testify as to the authenticity and nature of records from EEOC files for complaints by Plaintiff to the EEOC produced in this case and/or to be produced pursuant to request or subpoena.
Custodian of records or other representative, Hawaii Civil Rights Commission	Will testify as to the authenticity and nature of records from HCRC files for complaints by Plaintiff to the HCRC produced in this case and/or to be produced pursuant to request or subpoena.
Custodian of records or other representative, Department of Defense or other releasing agencies	Will testify as to the authenticity and nature of records from the DOD's or other releasing agency's files for complaints made against David Millard and/or SMF Systems, including the CID report produced in this case and/or to be produced pursuant to request or subpoena.
Custodian of records or other representative, SMF Systems Corporation	Will testify as to the authenticity and nature of records from SMF's files.
Custodian of records or other representative, Dr. Thomas Fiester	Will testify as to the authenticity and nature of records from Dr. Fiester regarding Plaintiff
Custodian of records or other representative, Dr. Laurence Granston	Will testify as to the authenticity and nature of records from Dr. Granston regarding Plaintiff.
Custodian of records or other representative, Dr. Kenneth Luke	Will testify as to the authenticity and nature of records from Dr. Luke regarding Plaintiff.
Custodian of records or other representative, Dr. Haleh Nekoerad-Long	Will testify as to the authenticity and nature of records from Dr. Nekoerad-Long regarding Plaintiff.
Long, Clyde	Will testify as to issues of liability and damages including, but not limited to:

CUSTODIAN WITNESS	SUBSTANCE OF TESTIMONY
	authentication of and authorization for documents sent by him to Plaintiff; Defendants' demand for reimbursement from Plaintiff of travel/training expenses and authorization therefor; Defendants' filing of claims against Plaintiff in California and Colorado and authorization for same.

### **OTHER WITNESSES**

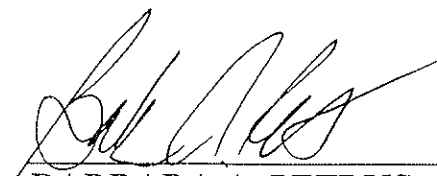
Plaintiff identified certain other witnesses in his Amended Final Pretrial Statement, as set forth in the chart below. At this time, it is highly unlikely that Plaintiff will call these witnesses at trial, primarily because Plaintiff has been unable to locate said witnesses, or because they are on the mainland and it would not be feasible for them to travel to Hawaii for trial. Plaintiff is, however, continuing to attempt to locate at least some of the witnesses that have not been located, and will amend this witness list promptly upon locating any witness whom Plaintiff intends to call in his case in chief.

OTHER WITNESS	SUBSTANCE OF TESTIMONY
Nelson, Monica	Will testify as to issues of liability including, but not limited to: her employment at SMF and Fort Shafter; the harassment by Millard and Wes Green; her reports of the harassment to Nehmad; SMF's response to her reports of harassment; her giving Plaintiff authority to act on her behalf as to the harassment; her knowledge of illegal and/or improper activities at SMF and TNOSC; Millard's improper control over SMF employees; her participation in

OTHER WITNESS	SUBSTANCE OF TESTIMONY
	government investigations into Millard and SMF; and her termination from SMF.

Plaintiff reserves the right to call any and all witnesses disclosed or listed by Defendants in any pleadings or discovery responses, and any and all non-expert and expert witnesses, if any, necessary for rebuttal or impeachment, including any witnesses who have been removed from this First Amended Final Witness List.

DATED: Honolulu, Hawaii, September 6, 2005.




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Attorneys for Plaintiff  
JOHN A. MOFFETT

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

JOHN A. MOFFETT,

Plaintiff,

vs.

SMF SYSTEMS CORPORATION, a  
Maryland corporation; et al.,

Defendants.

CIVIL NO. 03-00130 HG/BMK

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was duly served on this date  
upon the following person(s) at the address(es) listed below by the means indicated:

Mail      Hand Delivery

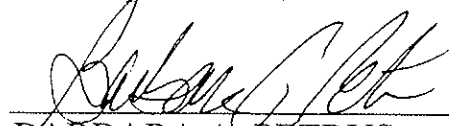
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✓

DATED: Honolulu, Hawaii, September 6, 2005.



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